IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 24830 of 2004

Between:

M. Adinarayana, S/o M. Ramanna, Hindu,

Aged about 33 years, Occ: Conductor, E.No.406749,
R/o Adapala Street,Kadiri, Ananthapur District.

..... PETITIONER

AND

1 The Depot Manager, APSRTC, Kadiri Depot,Kadiri, Ananthapur District.
2 The Divisional Manager, APSRTC, Hindupur Division, Hindupur,
Ananthapur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus or any other appropriate writ, declaring the proceedings No. 02/95(113)/2002-KDR dated 16-8-2002 of the 1st respondent and Proceedings No. PA/19(122)/2002-DVM.H. dated 21-11-2002 of the 2nd respondent as illegal, arbitrary, in violation of principles of natural justice and in violation of Art. 14 and 21 of the Constitution of India, and consequentially direct the respondents to add two annual increments to the pay of the petitioner.

Counsel for the Petitioner: S.SURENDRA KUMAR

Counsel for the Respondents: MR.P.VINAYAKA SWAMY

The Court made the following:

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ORDER:

Declaring the action of the 1st respondent in imposing major penalty vide proceedings No.02/95 (113)/2002-KDR dated 16.08.2002, as illegal and arbitrary, the present writ petition is filed.

The petitioner is working as a Conductor in the respondent Corporation. He was charged for an irregularity in collecting fare and issuing tickets to the passengers. He submitted his explanation. The 1st respondent passed an order on 16.08.2002 without conducting any enquiry by imposing a penalty of deferment of annual increment for a period of two years, which shall have effect on future increments of the petitioner. The petitioner preferred an appeal to the 2nd respondent and the same was rejected. Hence the writ petition.

2. The grievance of the petitioner is that since it is a major punishment, it cannot be maintained unless it is imposed after holding an enquiry and giving an opportunity to the petitioner. Therefore, he approached this Court through this writ petition to declare that the action of the respondents is illegal and to direct the respondents to add the deferred increments.

3. It is well settled that denial of increments with cumulative effect tantamount to a major penalty, and such penalty cannot be imposed by the disciplinary authority without holding a regular departmental enquiry in terms of relevant service regulations.

4. Having regard to the facts and circumstances of the case, the punishment of major penalty of deferment of annual increment for a period of two years with cumulative effect, imposed by the 1st respondent, can be reduced with slight modification. Therefore, the impugned order of punishment is modified as deferment of annual increment for a period of two years without cumulative effect. The petitioner is not entitled for the difference of the amount if any by virtue of this Order, but he is entitled to get the increments on notional calculation from the date of this Order to which he is entitled.

5. The writ petition is, accordingly, disposed of. No costs.

dsr

ASSISTANT REGISTRAR

To:

1. The Depot Manager, APSRTC,

Kadiri Depot, Kadiri, Ananthapur District

2. The Divisional Manager, APSRTC,

Hindupur Division, Hindupur, Ananthapur District

3. Two CD copies.